

1 KEKER & VAN NEST, LLP
2 JEFFREY R. CHANIN - #103649
3 DARALYN J. DURIE - #169825
4 KEVIN T. REED - #240799
5 710 Sansome Street
6 San Francisco, CA 94111-1704
7 Telephone: (415) 391-5400
8 Facsimile: (415) 397-7188

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10 Attorneys for Plaintiff
11 NETFLIX, INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 NETFLIX, INC., a Delaware corporation,

16 Case No. C 06 2361 WHA

17 Plaintiff,

18 v.

19 BLOCKBUSTER, INC., a Delaware
20 corporation, DOES 1-50,

21 Defendant.

22 [PROPOSED] ORDER GRANTING
23 PLAINTIFF NETFLIX'S MOTION TO
24 DISMISS BLOCKBUSTER'S
25 ANTITRUST COUNTERCLAIMS AND
26 TO STRIKE AFFIRMATIVE DEFENSES
27 OF UNENFORCEABILITY AND
28 PATENT MISUSE

29 Date: August 17, 2006
30 Time: 8:00 a.m.
31 Judge: Hon. William Alsup

32 ORDER GRANTING PLAINTIFF NETFLIX'S MOTION TO DISMISS ANTITRUST COUNTERCLAIMS AND
33 TO STRIKE AFFIRMATIVE DEFENSES OF UNENFORCEABILITY AND PATENT MISUSE

34 Case No. C 06 2361 WHA

1 Plaintiff Netflix, Inc.'s motion to dismiss Defendant's First and Second Counterclaims
2 and to strike Defendant's Second and Third affirmative defenses came on for hearing before this
3 Court on August 17, 2006, at _____ a.m. before the Honorable William Alsup, United States
4 District Court, San Francisco, California, with all parties having appeared through counsel.

5 The Court having reviewed the request, and after consideration of the opposition and
6 reply papers, arguments of counsel, and all other matters presented to the Court, IT IS HEREBY
7 ORDERED:

8 Plaintiff Netflix, Inc.'s motion to dismiss is GRANTED on the grounds that Defendant's
9 First and Second Counterclaims and Second and Third affirmative were not plead with the
10 particularity required by Rule 9(b) of the Federal Rules of Civil Procedure.

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12 Dated:

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15 Hon. William Alsup
United States District Judge

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